

## **REMARKS**

The claims pending in the subject application are 10-15. Reconsideration of this application based on the Amendments and Remarks presented herein is respectfully requested.

The amendment to claim 10 is being made to place the claims in better condition for appeal.

## **CLAIM OBJECTIONS**

Claim 10 was objected to because "said transport" should have referred to "said transport portion". Claim 10 has been amended accordingly.

## **DRAWING OBJECTIONS**

The drawings were objected to because it was alleged that the drawings did not show the limitation from claim 11 in that the substantially flat surfaces have a concave curvature. The drawings do show this structure. In Figure 11, it can be seen that the grooves 326 are positioned to conform to the concave curvature. In Figure 11, the transport portion can be seen tapering from the mouth guard (325) to the end opposite the mouth guard. The concave curvature is shown within this portion. Therefore, it is respectfully requested that this objection be withdrawn.

## **35 U.S.C. §102 REJECTIONS**

Claims 10-15 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,711,759 to Smith et al. It was alleged that Figures 1-3 of Smith '759 showed all of the limitations of the claims.

Claim 10 requires the transport portion have at least two substantially flat surfaces, each substantially flat surface has a plurality of grooves located thereon. Smith '759 does not show this structure with a plurality of grooves located on the at least two substantially flat surfaces.

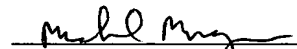
In Figure 11 of Smith '759, the article shown by the figure is in cross-section. From the Brief Description of Drawings at column 3, lines 48-50, Figure 11 was intended to be a perspective view. Figure 11, however, is presented as a cross-sectional view as evidenced by the cross-hatching marks and the illustration of the internal liquid flow system. A cross-sectional view only shows what a plane passing through the structure would look like at that specific location. There is no disclosure in Figure 11 as to the overall structure of the head member. An infinite number of structures are possible on either side of the cross-sectional plane. The actual structure of the head member in Figure 11 is therefore indefinite, and it

does not disclose the structure of claim 10 d) of a plurality of grooves located on the at least two substantially flat surfaces. Therefore, it is respectfully submitted that claims 10-15 are not anticipated by U.S. Patent No. 5,711,759 to Smith et al.

In view of the remarks contained above, Applicants respectfully request reconsideration of the application, withdrawal of the 35 USC §102 rejections, and request that a Formal Notice of Allowance be issued for claims 10-15. Should the Examiner have any questions about the above remarks, the undersigned attorney would welcome a telephone call.

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Respectfully submitted,

  
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